

STATE OF CALIFORNIA  
Budget Change Proposal - Cover Sheet  
DF-46 (REV 08/15)

Local Year 2016	Business Unit 8660	Department Public Utilities Commission	Priority No. 008
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Budget Request Name 8660-008-BCP-BR-2016-A1	Program 6680055 - ENERGY	Subprogram
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Budget Request Description  
Establish a Division of Safety Advocates

Budget Request Summary

The PUC requests 11 permanent positions and \$1,694,000 in funding from the Public Utilities Commission Utilities Reimbursement Account (fund 0462). These new positions and funding will be used to create the Division of Safety Advocates, an independent division within the PUC. Similar to when the PUC established the Public Staff Division (now known as Office of Ratepayer Advocates) in 1984 in response to unprecedented utility requests for general rate increases, the PUC requests to establish a Division of Safety Advocates in response to unprecedented failures of utility infrastructure over the past five years that threaten the safety of Californians. This need has been further highlighted by the 2015 gas leak at the Aliso Canyon Storage Facility. In 1984, the Public Staff Division was created to critically review and analyze utility applications that were set for hearings, testify in hearings and investigations, and make analyses and recommendations intended to develop a formal record and serve the best long-term interests of all utility ratepayers. Creation of a Division of Safety Advocates would allow the PUC to have a division dedicated to establishing a safety focus, testifying in hearings, and exclusively prioritizing and advocating for the protection and safety of Californians as a party to PUC proceedings. The mission of the PUC is to assure that utilities provide safe and reliable service at reasonable rates. In 1984, we recognized that keeping rates low was becoming an increasing priority and so we established the ORA. It is now time to establish the Division of Safety Advocates to do the same in the safety realm.

Requires Legislation <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Code Section(s) to be Added/Amended/Repealed
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Does this BCP contain information technology (IT) components? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <i>If yes, departmental Chief Information Officer must sign.</i>	Department CIO	Date
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For IT requests, specify the date a Special Project Report (SPR) or Feasibility Study Report (FSR) was approved by the Department of Technology, or previously by the Department of Finance.

<input type="checkbox"/> FSR <input type="checkbox"/> SPR	Project No.	Date:
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If proposal affects another department, does other department concur with proposal? ☐ Yes ☐ No  
*Attach comments of affected department, signed and dated by the department director or designee.*

Prepared By Marzia Zafar	Date 03/29/16	Reviewed By Jack Dwyer	Date 03/29/16
Department Director Timothy J. Sullivan	Date 03/29/16	Agency Secretary	Date

Department of Finance Use Only

Additional Review: ☐ Capital Outlay ☐ ITCU ☐ FSCU ☐ OSAE ☐ CALSTARS ☐ Dept. of Technology

BCP Type: ☐ Policy ☐ Workload Budget per Government Code 13308.05

PPBA	Original Signed By: Ellen Moratti	Date submitted to the Legislature APR 01
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### A. Budget Request Summary

The PUC requests 11 permanent positions and \$1,694,000, to be used to create the Division of Safety Advocates, an independent division within the PUC. Similar to when the PUC established the Public Staff Division (now known as Office of Ratepayer Advocates) in 1984 in response to unprecedented utility requests for general rate increases, the PUC requests to establish a Division of Safety Advocates in response to unprecedented failures of utility infrastructure over the past five years that threaten the safety of Californians. This need has been further highlighted by the 2015 gas leak at the Aliso Canyon Storage Facility. In 1984, the Public Staff Division was created to critically review and analyze utility applications that were set for hearings, testify in hearings and investigations, and make analyses and recommendations intended to develop a formal record and serve the best long-term interests of all utility ratepayers. Creation of a Division of Safety Advocates would allow the PUC to have a division dedicated to establishing a safety focus, testifying in hearings, and exclusively prioritizing and advocating for the protection and safety of Californians as a party to PUC proceedings. The mission of the PUC is to assure that utilities provide safe and reliable service at reasonable rates. In 1984, we recognized that keeping rates low was becoming an increasing priority and so we established the ORA. It is now time to establish the Division of Safety Advocates to do the same in the safety realm.

### B. Background/History

The PUC's mission is to serve the public interest by protecting consumers and ensuring that regulated utilities provide safe and reliable service at reasonable rates. (See generally, Public Utilities Code §§ 451 and 761.)

The PUC currently has over 160 Public Utilities Code (P.U. Code) sections and at least 25 General Orders mandating safety requirements and rules for rail, electric, gas, and water utilities; passenger carriers and household goods carriers; and telecommunications providers. The primary responsibility of enforcing these safety requirements and rules resides with the PUC's Safety & Enforcement Division (SED).

The PUC has formal proceedings in which an Administrative Law Judge is assigned and, through an open and public process, parties to these proceedings develop a formal record upon which decisions are drafted for the Commission's consideration.

The PUC's Safety & Enforcement Division provides two main functions:

1. Enforcement: Ensuring that the utilities comply with existing safety requirements and bringing forth enforcement actions when violations are discovered.
2. Advisory: Serving as consultative staff to Administrative Law Judges and Commissioners in proceedings.

SED only serves in an advocacy function in Orders Instituting Investigation (OIs), in which it effectively becomes the prosecutor against the utility whose alleged misconduct is the subject of the proceeding.

Pursuant to Senate Bill 636 (Stats. 2014, Ch. 548), Commission staff cannot serve in both advisory and advocacy capacities in the same proceeding. Thus, in proceedings where SED serves in an advisory capacity, it cannot independently present testimony or evidence on general safety issues. Similarly, the Commission's various industry divisions may be able to identify safety concerns in various proceedings, but generally are not parties; they provide staff support to the Administrative Law Judge. Given the complex and technical nature of many proceedings, having SED and/or other Industry Division staff (such as Energy Division staff, for example) serve as an advocate would limit the Commissioners' and Administrative Law Judges' ability to receive technical support and advice.

### C. State Level Considerations

Most utility infrastructure was installed decades ago and is now reaching the end of its useful life. In recent years, failures of utility systems in California have highlighted the need to proactively evaluate critical infrastructure and to identify needed maintenance and funding beyond what has been requested in routine utility rate applications.

On September 9, 2010, a segment of a natural gas transmission pipeline owned by PG&E, installed in the 1950s, exploded, killing eight people. It was later found that PG&E did not adequately monitor and



## Analysis of Problem

maintain this pipeline, and, over time, the pipeline segment exploded, causing shock waves equivalent to a magnitude 1.1 earthquake.

On July 15, 2015, an underground electric vault owned by Southern California Edison exploded when a cable splice failed in an underground vault near 3rd Street and Chestnut Avenue in downtown Long Beach. The vault exploded, setting off a chain of other vault explosions and sending manholes airborne. As many as 22,000 customers lost power the first day of the outage, some of them elderly and disabled. The number fell to about 6,500 by the second day. It took five days for full service to be restored, causing serious disruption to the lives and businesses of local residents.

On October 23, 2015, a natural gas leak developed in a well being used for injection and production of gas in the Aliso Canyon Natural Gas Storage Facility in Los Angeles County. The leak represented a significant threat to the public peace, health, safety, and general welfare. The leak forced the relocation of thousands of people from the nearby community, and many residents reported adverse physical symptoms. The leaking gas was also found to be highly flammable, posing an additional danger to public health and safety.

The PUC identified the need for increased emphasis on safety issues in its review of utility infrastructure requests. Consequently in 2014, it adopted a new regulatory model for evaluating safety proposals and assessing risk within the general rate case process. However, there still exists a gap – there has been no formal testimony focused solely on safety, thus limiting the Commission's ability to proactively consider safety matters as part of the official formal record.

Additionally, the PUC adopted a Safety Vision in 2014, with the following guiding principles:

1. Continually assess and reduce the safety risk posed by the companies we regulate
2. Hold companies (and their extended contractors) accountable for safety of their facilities and practices
3. Be accountable for the oversight of safety in the industries we regulate
4. Provide clear guidance on expectations for safety management and outcomes
5. Provide transparent and effective procedures for enforcement of those expectations
6. Promote reliable access to utility services that support health and safety
7. Promote a culture of safety vigilance by PUC staff, and in the industries we regulate
8. Learn from experience and continuously improve safety oversight and outcomes

The Division of Safety Advocates will give the PUC the ability to develop the administrative record and specifically consider the safety of the utility's system. This not only directly addresses the safety principles that the PUC adopted in 2014, but also addresses the Legislature's continued and concerted call for safe delivery and operation of the utility system. More importantly, the proposed Division of Safety Advocates would establish a division of staff dedicated to addressing and advocating for the above guiding principles with the objective of identifying and minimizing or eliminating potential future impacts to public safety from aging utility infrastructure.

### D. Justification

Recent failures in utility infrastructure, including the Aliso Canyon incident and the Edison vault explosion, highlight a gap in the PUC's process to proactively identify the need for safety mitigation beyond what has already been requested by the utilities. That gap is that the focus is on reasonable rates for reliable service, with no consideration of the safety implications if a request for funding is delayed or denied. The mission of the PUC is to ensure that utilities provide safe and reliable service at reasonable rates. In 1984, we recognized that keeping rates low was becoming an increasing priority and so we established the ORA. It is now time to establish the Division of Safety Advocates to do the same in the safety realm.

The Aliso Canyon incident highlighted this gap, in particular, because SoCalGas, in their testimony for funding, did submit testimony on the health of storage wells. However, intervenors were more focused on the cost of the request and did not do an adequate job of discussing the safety consequences of an aging storage well. This type of cost focus holds true for almost every hearing before this Commission. Thus, delivering reasonable rates is thoroughly addressed in testimony and briefs from a wide array of intervenors such as ORA and The Utility Reform Network, but safety is often not covered by any intervenor.



## Analysis of Problem

Although the PUC's SED staff may serve as advisory staff to the judge, this information is not part of the evidentiary record, thus the judge cannot rely on it for the truth of the matter. Again, this is similar to why, in 1984, the Commission created what is now known as ORA. At that time, the utilities were collectively requesting over \$13 billion in rate increases. The ORA was formed to provide testimony and develop the record to ensure that Californians received utility service at just and reasonable rates. Today's request to form a Division of Safety Advocates addresses the need to properly assess whether the utility is adequately maintaining and operating its assets and contemplating the risks associated with delay. We need dedicated staff to develop the record through testimony and analysis to highlight safety gaps. The PUC's SED group cannot perform this function because their role is to enforce and investigate; they cannot serve as safety advocates. There is an inherent conflict of interest for SED to enforce, investigate, advise, and advocate in the same proceeding. Senate Bill 636, which became law in 2014, further explains this conflict of interest. Therefore, the PUC's request for a Division of Safety Advocacy stems from the need to independently address safety of the utility's system in proceedings before the Commission.

To date, intervenors have focused on safety only to the extent it impacts rates and costs. No party presents testimony that reviews proposals based only on safety irrespective of the cost impact. Therefore, the Commission's ability to proactively consider safety matters is limited. Accordingly, in 2014, the Commission created a new regulatory model for evaluating safety proposals and assessing risk within the general rate case process.

Currently, the PUC has no specific divisions, branches, or sections dedicated to intervening as a party on safety-related issues in relevant proceedings.

The ORA and SED cannot serve as an independent safety advocate due to the following reasons:

1. ORA's role is to advocate for the lowest rates for customers of the regulated utilities, consistent with safe and reliable service levels. While ORA is mandated to represent customers primarily on cost of service issues, it must also consider the safety and reliability of the utility service. Although ORA recognizes the foundational requirement that utility operations must be safe and that utilities must have adequate funding to operate safely, ORA's mandate to keep rates low is fundamentally at odds with the need to increase expenditures on safety-related investments.
2. SED's role is (a) enforcement, which is ensuring that the utilities comply with existing safety requirements and bringing forth enforcement actions when violations are discovered; and (b) advisory, which is serving as consultative staff to Administrative Law Judges and Commissioners in proceedings (similar to Energy Division and Communications Division).

While the Commission's various industry divisions, such as Energy Division, may be able to identify safety concerns in various proceedings, they are not parties; they provide staff support to the Administrative Law Judge. This means that, in proceedings where a utility requests funds for infrastructure investment, there is often no testimony identifying potential safety issues.

The leak at the Aliso Canyon Storage Facility cannot be considered an isolated incident. Rather, it highlights the much larger issue that much of California's gas and electric utility infrastructure was installed prior to 1970, and this aging infrastructure needs to be constantly monitored, inspected, and evaluated for potential threats. In 2015 alone, the PUC investigated 522 separate gas and electric incidents resulting from this aging infrastructure. Utility requests for infrastructure upgrades and related maintenance, inspection, and monitoring are increasing rapidly. Such requests are considered in General Rate Case applications, where the focus of the various parties, such as consumer advocates (e.g. The Utility Reform Network - TURN), unions, and large commercial and industrial customers, is on cost and minimizing rate shock (affordability).

There are no stakeholder groups that are solely dedicated to public safety that are willing to appear before the Commission and actively participate in relevant proceedings. The lack of such groups and the increasing number of incidents due to aging utility infrastructure compel the Commission to create a new Division of Safety Advocates within its own body to highlight safety. This new Division will report directly to the Commission's Executive Director and will be charged with becoming an independent safety advocate and intervening in Commission proceedings in order to assist in developing the evidentiary record around safety, rather than just cost and rate impacts. A division focused solely on safety advocacy ensures that safety issues will be brought to the highest levels of the Commission in an open and transparent fashion.

## Analysis of Problem

The leak at the Aliso Canyon Storage Facility may be the tip of the iceberg, and the PUC needs dedicated staff to review the utility's application and actively participate in developing the issue on safety matters in order for Californians to receive safe utility service.

Part of the Division of Safety Advocates' role will be to determine whether additional safety improvements are required and, if so, who should bear the costs. If the necessary safety improvements are needed even though the utility has prudently managed its assets, reasonable costs for these improvements would be recovered from ratepayers. However, costs for needed improvements due to past imprudence or failure to comply with statutes and regulations should be paid by shareholders. This Division will submit testimony accordingly. This type of testimony and accountability is currently missing from the formal record. Energy Division does provide advisory information to the Administrative Law Judge, but it is not on the record and intervenors are more focused on the present than on the accounting for past expenditures.

The requested positions will enable the Commission to create the Division of Safety Advocates and allow the Division to participate in the major utility General Rate Case applications. There is at least one General Rate Case application filed by a major energy utility (PG&E, Southern California Edison Company, SDG&E and Southern California Gas Company) every year. Each application generally has a minimum of ten utility witnesses and six intervenors, a minimum of three weeks of evidentiary hearings, thousands of pages of testimony, and hundreds of data requests. The requested positions would allow the Division of Safety Advocates to effectively participate in two General Rate Case applications at any point in time. However, the Commission anticipates that additional staff will be needed in the future to ensure that safety considerations are raised and fully considered in all applicable proceedings. The overall reason why we need 11 dedicated staff members is that, typically, the PUC has scheduled the four large utilities (i.e. PG&E, Edison, SoCalGas, and SDG&E) to file their General Rate Cases one at a time. So, in any given year, the PUC reviews one General Rate Case. Each General Rate Case has over 10 to 15 witnesses that file testimony requesting for a specific area of infrastructure. Then each intervenor files their testimony on what their interest may be (i.e. ORA or TURN may not deal with each piece of the utility testimony, but rather select the more costly issues). As a result, the staff for the Division of Safety Advocates will need to review all 15 testimonies, as well as intervenor testimony, and then file its own testimony. The goal is to have this Division address every piece of testimony filed by the utility. Additionally, a utility may also file a separate application with a separate set of testimonies addressing a more immediate need. The Division of Safety Advocates will also need to address the application and ensure that testimony is filed on behalf of the PUC in this proceeding as well.

The 11 positions requested is the absolute minimum we need to create a Division that can adequately begin to intervene and effectively participate in proceedings – including preparing testimony, conducting discovery, and analyzing utility requests – and evaluate the probability of unsafe utility service and its impact to the public.

### Senior Utility Engineers – 4

Senior Utility Engineer Workload	Hours
Review all direct, intervenor, and rebuttal testimony in proceedings where a utility requests funding for infrastructure related needs (i.e. gas pipelines, gas storage facilities, electric distribution lines, electric transformers, etc.)	>2000
Draft testimony to identify unsafe practices in the gas and electric utility industry and address intervenor testimony through rebuttal	>5,000
Prepare data requests; prepare responses to data requests	>700
Other duties as assigned	>600
<b>Total</b>	<b>&gt;8,300 hours</b>



## Analysis of Problem

### PURA V – 3.0

<b>PURA V Workload</b>	<b>Hours</b>
Working with the engineering specialist to analyze, interpret, and synthesize the complex utility data about risk models and safety factors accurately; prepare testimony, as well as highly complex reports and other documents, for internal and external audiences	3,800
Write reports with recommendations for informal or formal Commission action, or for action by an external state or federal agency	2,000
Other duties as assigned	>400
<b>Total</b>	<b>&gt;6,200</b>

### Public Utility Counsel III – 3.0

<b>PU Counsel III Workload</b>	<b>Hours</b>
Read utility testimony for infrastructure related funding requests	>800
Provide legal analysis and advice to staff	>600
Prepare for and attend settlement negotiations and hearings. Prepare witnesses, testimony, and cross-examination for hearings	>2,500
Prepare and file legal motions, opening and reply briefs, review and serve data requests; review and serve responses to data requests	>1,600
Other duties as assigned	>500
<b>Total</b>	<b>&gt;6,000</b>

### Division Director Role (CEA B) – 1.0

<b>Division Director Role</b>	<b>Hours</b>
Develop strategy in proceedings, review testimony, and meet with Commissioners and other decision-makers to advocate Division's positions in proceedings	>1,200
General supervisory duties of staff, including reviewing staff performance and other personnel matters	>300
Interface with the rest of PUC management to ensure compliance with regulations, development of best practices, and to encourage transparency and cooperation	>300
Other duties as assigned	>200
<b>Total</b>	<b>&gt;2,000</b>

## E. Outcomes and Accountability

Approving this request enhances the PUC's ability to better address safety matters in formal proceedings. This new Division will identify and develop the formal record on safety-related risks in the proceeding, and will help the Commission in its efforts to hold the utilities accountable for the safe operation of their systems. The goal of the PUC's Division of Safety Advocates will be to identify safety concerns and address them in a timely manner to prevent future accidents.



## Analysis of Problem

Unlike any other request, the creation of this group will bring immediate accountability because its performance will be judged in an open court and through cross examination of Division of Safety Advocates witnesses by utility attorneys and other interested stakeholders.

### F. Analysis of All Feasible Alternatives

#### Alternative #1: Fund fewer positions and hire consultants

Funding can be provided for five Public Utilities Regulatory Analysts (PURAs) along with a Division Director. This group will hire consultants to draft testimony to be submitted as part of the formal record. Modeled after the PUC's California Environmental Quality Act (CEQA) unit currently housed in the PUC's Energy Division, the Division of Safety Advocates, reporting directly to the Executive Director, can consist of five analysts at PURA V level and one attorney, along with a Division Director, to oversee its operations and perform quality control. These will be all new hires and can be mainly responsible for managing contracts with the consultants. The consultants will be experienced utility engineers responsible for the review of utility testimony and draft testimony on behalf of the PUC from a solely safety perspective and ensure that the utility request adequately provides for the safe operation of the system. Just like the current practice in the CEQA unit, the contract expenses will be billed directly to the utility companies.

##### Pros:

- This option does not impact the General Fund

##### Cons:

- Limits the Division's ability to permanently act as the safety advocate
- Consultants require time and some degree of training to become familiar with the PUC's oversight of utilities
- There would be a limited number of consultants experienced in the field from which to choose, given the specialized nature of the work and the probability of conflicts of interest
- More expensive, since consultants typically receive a significantly higher hourly rate than PUC staff

#### Alternative #2: Redirect staff

The Division of Safety Advocates can be created by reassigning existing staff to the new unit (i.e. creating a new Division reporting directly to the Executive Director). Staff with the relevant experience and desire to work in an advocacy group can be recruited from within the Commission.

##### Pros:

- No additional expenditures will be incurred

##### Cons:

- This alternative will require the PUC to reallocate resources, which means some existing activities and/or projects will not be pursued, will be delayed, or postponed
- Some legislation may not be implemented in a timely manner due to reallocation of staff

#### Alternative #3: Amend Public Utilities Code

The PUC could sponsor a bill to modify the I-Comp statute (P.U. Code section 1801 et seq.) to allow costs to be recovered upfront by outside intervenors, thereby creating an incentive for the market to create a stakeholder group similar to TURN that advocates for rates in formal PUC proceedings. This new group would advocate for safety only, but, for it to get started and built over time like a TURN, the funding needs to be upfront. Currently, the I-Comp process gives intervenors compensation for their services after a final decision has been adopted by the PUC. This process to get to a final decision usually lasts between 18 and 24 months and then the Commission has to approve the compensation, which takes an additional three or four months. This time lag prevents new entrants from participating in the process, especially if they have to pay consultants upfront.

##### Pros:

- A TURN-like intervenor will participate solely on safety, whereas TURN focuses on rates

## Analysis of Problem

### Cons:

- This is a long-term solution and it is unknown if the Legislature would take up this issue; in the meantime, we have an existing issue with aging infrastructure

### G. Implementation Plan

Providing necessary funding and position authority upon enactment of the Budget Act of 2016 will allow the PUC to establish the new Division of Safety Advocates within six months of receiving authority.

### H. Recommendation

The PUC recommends approval of 11 permanent positions and \$1,694,000. These positions and funds will be used to create the Division of Safety Advocates, an independent division within the PUC with responsibility to intervene in Commission proceedings. The Division's focus will be to evaluate whether a utility's request for funding provides, among other considerations, for the safe operation of the utility system and to identify whether any additional safety considerations should be addressed. This Division's role will be similar to that of ORA's – the difference is that ORA intervenes and testifies in formal proceedings with the goal of keeping rates low, whereas the Division of Safety Advocates will intervene and testify in formal proceedings with the goal of keeping Californians safe.

None of the alternatives – supplementing staff with consultants, redirecting existing staff, or amending Public Utilities Code – accomplishes the goal of deterring or preventing future incidents in a timely, cost effective way. The recommendation to create a new Division solely focused on advocating safety is the most efficient use of resources to quickly and efficiently begin to proactively address the damage that our aging infrastructure can cause.



Department of Finance  
2016-17  
Finance Letter Worksheet

8660-001-0462-2016  
Prop 98: N

DEPT: Public Utilities Commission  
STATE OPERATIONS

8660-107-BCP-BR-2016-A1      Safety Advocate Division

**Proposal Summary**

Add resources to create the Division of Safety Advocates.

Category Changes	Positions	Whole Dollars
Salaries and Wages	11.0	773,000
Staff Benefits	0.0	331,000
Operating Expenses and Equipment	0.0	590,000
<b>Total Category Changes</b>	<b>11.0</b>	<b>\$1,694,000</b>

Program Changes	Positions	Whole Dollars
6680 Regulation of Utilities	11.0	1,694,000
6680055 Energy	11.0	1,694,000
<b>Total Program Changes</b>	<b>11.0</b>	<b>\$1,694,000</b>

Fund Changes	Positions	Whole Dollars
Amount Funded by 8660-001-0462-2016	11.0	1,694,000
<b>Net Impact to Item</b>	<b>11.0</b>	<b>\$1,694,000</b>

ASM CONSULTANT: CG  
SEN CONSULTANT: FCB  
DOF ANALYST: Kathy Madison  
LAO DIRECTOR: BB  
SCENARIO: April Revision  
VERSION: Finance Working  
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